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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,) No. CR 005-0445 RMW
Plaintiff,)
v.) JOINT SENTENCING MEMORANDUM
DAVID M. FISH,) REGARDING RESTITUTION FOR
aka x000x,) DEFENDANT DAVID M. FISH xxxxx
Defendant.) xxxxxxxxxxxxxxxxxxxxxxx

The parties jointly submit this supplemental sentencing memorandum on the issue of restitution.

On April 28, 2008, the Court imposed sentence for defendant David M. Fish in the Southern District of Iowa case (CR 06-00109-RMW) and in the Northern District of California case (CR 06-00054-RMW). The Court determined, and the parties agreed, that it was appropriate to decide the issue of restitution separately and set a hearing for June 16, 2008.

28 The parties have further considered the matter of restitution and stipulate as follows:

1 1. The total amount of restitution for defendant David M. Fish based on his
2 involvement in the Southern District of Iowa case (CR 06-00109-RMW) is \$90,787.98. Of this
3 amount, \$9,426.98 is due to the Recording Industry Association of America; and \$81,361 is due
4 to the Business Software Alliance.

5 2. The total amount of restitution for defendant David M. Fish based on his
6 involvement in the Northern District of California case (CR 06-00054-RMW) is \$982,579.62
7 (which reflects activity based on the CHUD warez site). Of this amount, \$21,760 is due to the
8 Motion Picture Association of America; \$937,619.62 is due to the Business Software Alliance;
9 and \$23,200 is due to the Entertainment Software Association.

10 3. Of the \$982,579.62 total restitution in the Northern District of California case,
11 defendant Fish is individually responsible for \$146,981.46.

12 4. Of the \$982,579.62 total restitution in the Northern District of California case,
13 defendant Fish is jointly and severally liable in the amount of \$835,598.16, with the following
14 co-defendants in the following amounts:

a.	<i>United States v. Daniel Van Horn</i> , CR 05-00710-RMW	\$19,912.16
b.	<i>United States v. Curtis Salisbury</i> , CR 05-00505-RMW	\$4,000.00
c.	<i>United States v. Ryan Zeman</i> , CR 05-00586-RMW	\$120,000.00
d.	<i>United States v. Nathaniel E. Lovell</i> , CR 05-00445-RMW	\$4,589.94
e.	<i>United States v. Mark G. Carter II</i> , CR 05-00709 RMW; CR 05-00746 RMW [Rule 20, D CT]	\$4,964.82
f.	<i>United States v. Jonathan Stanley Golenbock</i> , CR 05-00761-RMW	\$63,699.98
g.	<i>United States v. Philip Kang</i> , CR 05-00795-RMW	\$23,549.89
h.	<i>United States v. Paul Aleman</i> , CR 05-00734-RMW	\$30,454.06
i.	<i>United States v. Deston Evans</i> , CR 05-00734-RMW	\$10,982.00
j.	<i>United States v. Moises Nunez</i> , CR 05-00734-RMW	\$34,595.54
k.	<i>United States v. Stephen Brown</i> , CR 05-00734-RMW	\$660.00
l.	<i>United States v. Matthew Fong</i> , CR 05-00054-RMW	\$9,149.00
m.	<i>United States v. Donovan Kargenian</i> , CR 05-00054-RMW	\$89,614.36

n.	<i>United States v. David Siloac</i> , CR 05-00054-RMW	\$4,074.00
o.	<i>United States v. Matthew Thompson</i> , CR 05-00054-RMW	\$22,380.93
p.	<i>United States v. Gregory Dickman</i> , CR 06-00054-RMW	\$31,515.50
q.	<i>United States v. Johnny Russell</i> , CR 05-00054-RMW	\$11,508.93
r.	<i>United States v. Ali Ghani</i> , CR 05-00054-RMW	\$107,663.85
s.	<i>United States v. Susan Rempe</i> , CR 06-00252-RMW	\$3,471.91
t.	<i>United States v. Phillip Templeton</i> , CR 05-00054-RMW	\$21,153.32
u.	<i>United States v. Paul Sherman</i> , CR 06-00331-RMW	\$4,714.00
v.	<i>United States v. Shon Peterman</i> , CR 06-00246-RMW	\$3,577.98
w.	<i>United States v. Ray Morada</i> , CR 06-00246-RMW	\$21,483.86
x.	<i>United States v. Tom Leung</i> , CR 06-00246-RMW	\$18,385.76
y.	<i>United States v. Allen Soares</i> , CR 06-00246-RMW	\$140.00
z.	<i>United States v. Brian Verhoeven</i> , CR 06-00247-RMW	\$145,218.00
aa.	<i>United States v. Terrance McCormick</i> , CR 06-00140-RMW	\$15,881.30
bb.	<i>United States v. Ryan Porter</i> , CR 06-00231-RMW	\$3,611.60
cc.	<i>United States v. Colin Jacobson</i> , CR-06-00477-RMW	\$4,645.47

5. The parties stipulate and agree to the foregoing, and urge the Court to adopt the foregoing restitution. If the Court so finds, the parties urge the Court to vacate the hearing set for June 16, 2008 at 9:00 a.m.

So Stipulated.

Dated: May 21, 2008

JOSEPH P. RUSSONIELLO
United States Attorney

/S/

Dated: May 21, 2008

MARK L. KROTKOSKI
Assistant United States Attorney

/S/

MICHAEL W. ARMSTRONG
Attorney for Defendant

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ORDER

IT IS SO ORDERED.

Upon good cause shown, and in light of the stipulation of the parties, the Court concludes that defendant David M. Fish is responsible for restitution in the foregoing amounts.

The hearing set for June 16, 2008 at 9:00 a.m. is vacated.

Dated: xxxxxxxx July 9, 2008

/s/ Ronald M. Whyte

RONALD M. WHYTE
United States District Judge

1 **CERTIFICATE OF SERVICE**

2 **UNITED STATES v. ALI GHANI**

3 NO. CR 06-00054-RMW

4 I, Glenn Gordon, declare that I am a citizen of the United States, over the age of 18 years
5 and not a party to the within action.

6 I hereby certify that a copy of the foregoing:

7 **JOINT SENTENCING MEMORANDUM REGARDING RESTITUTION FOR**
DEFENDANT DAVID M. FISH [AND PROPOSED ORDER]

8 was served today ____ by hand; ____ by facsimile; ____ by Federal Express; by first class
9 mail by placing a true copy of each such document(s) in a sealed envelope with postage thereon
10 fully paid, either in a U.S. Mail mailbox or in the designated area for outgoing U.S. Mail in
accordance with the normal practice of the United States Attorney's Office; ____ by placing in the
Public Defender's pickup box located in the Court Clerk's Office.

11 Michael W. Armstrong, Esq.
12 Nolan Armstrong et al LLP
13 600 University Ave
14 Palo Alto, CA 94301
15 FAX (650) 326-9704

16 Benjamin Flores
17 U.S. Probation Officer
18 United States Probation Office
19 Northern District of California
20 280 South First Street
21 San Jose, CA 95113
22 Fax (408) 535-5206

23 I declare under penalty of perjury that the foregoing is true and correct, and that this
24 certificate was executed at San Jose, California

25 DATED: May ___, 2008

26 _____
27 LAURI GOMEZ
28 Paralegal